

SHEBOYGAN COUNTY SHERIFF

OFFICE OF THE SHERIFF
SHEBOYGAN COUNTY

MICHAEL HELMKE
Sheriff

Glenn E. Berg
Inspector

October 15, 2007

Dear Representative LeMahieu and Hearing Wisconsin Legislators,

Thank you for your consideration of this Bill before you that would address a shortcoming in the current state law. As you know a person who steals a firearm is guilty of a Class H felony, but a person who knowingly receives a stolen firearm is only guilty of a misdemeanor unless the value of the weapon exceeds a certain dollar amount. This Bill would make it a felony for anyone to knowingly receive a stolen firearm.

We have experienced an increase in property crimes and burglaries in Sheboygan County and firearms are a targeted item of the thieves. Unfortunately, these firearms are then used in further crimes many of which are crimes against persons such as robberies and drive by shootings. These stolen firearms are also in high demand for drug dealers, gang members and other convicted felons who can not legally purchase a gun.

It would only make sense that a person who knowingly receives a stolen firearm is held to the same penalties under the law that the person who stole it is. As Sheriff, I ask your support in making the amendments proposed in this Bill.

Thank you in advance for your attention to this public safety issue. If I can be of further assistance to any of you please let me know.

Sincerely,



Michael W. Helmke
Sheriff

SHEBOYGAN COUNTY SHERIFF

OFFICE OF THE SHERIFF SHEBOYGAN COUNTY

MICHAEL HELMKE
Sheriff

Glenn E. Berg
Inspector

Dear Representative LeMahieu and Joint Review Committee on Criminal Penalties,

Thank you for taking the time today to consider the legislative bill being proposed by Representative LeMahieu to change current state law as it concerns Receiving Stolen Property in the form of a firearm. Currently this particular crime is a Class A misdemeanor, unless the value of the property exceeds \$2,500.00 when it becomes a felony even if the stolen property is a firearm. Under current state law the mere Theft of a Firearm is a felony no matter what the value of the firearm is. I believe the legislative intent concerning the Theft of a Firearm recognized that a firearm is no ordinary piece of property and a firearm in the hands of a criminal that would steal a firearm poses a threat to the general public and law abiding citizens. It stands to reason that a criminal who knowingly receives and possesses a stolen firearm poses the same threat to the general public and law abiding citizens.

The reason I asked Representative LeMahieu to consider proposing a bill to change the current law included the aforementioned opinion and my own personal experience and concerns I have had investigating burglaries and thefts involving firearms and in what hands these stolen firearms would end up in. These concerns were also shared by many of the burglary and theft victims I would encounter over the years.

At the time I brought my concerns to Representative LeMahieu, I and several of my colleagues had just completed an investigation involving the burglary and theft of 5 handguns, 1 rifle and 1 shotgun. Several suspects were identified and charged in the incident and all of the firearms were ultimately recovered. However, during the course of the investigation we only had information that could prove that a number of the suspects could only be charged with Receiving and Possessing Stolen Firearms as a misdemeanor and we were having some difficulty recovering these stolen firearms due to lack of cooperation. It was not until later in the investigation that we received information that these suspects were actually involved as parties to the burglary and theft and they were charged accordingly. The missing firearms were recovered shortly thereafter.

Law abiding citizens who acquire firearms legitimately and in good faith have no concern if this bill is passed into law. The bill does not change the elements of the offense of Receiving Stolen Property as defined in State Statute 943.34, but merely creates a greater penalty if the stolen property is a firearm.

The burden of proof placed upon the state to prove a defendant "knowingly" received or possessed a stolen firearm will remain the same. That burden of proof as outlined in the Wisconsin Jury Instructions for this offense included 3 elements that must be satisfied to convict a defendant of this offense. They are:

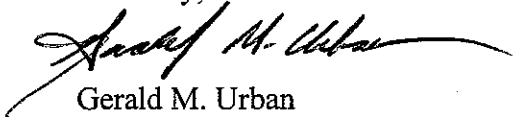
- 1.) The defendant intentionally received the property.
- 2.) The property was stolen.
- 3.) When the property was received, the defendant knew that it was stolen property.

That same burden of proof rests with law enforcement officers when investigating this offense and must be met before a case is presented to their district attorney.

There has been an increase of firearm related offenses throughout the State of Wisconsin over the last several years and I believe this bill addresses a hole in current law that needs to be filled in order to help deal with this problem. The bill creates a greater penalty for criminals who knowingly possess a stolen firearm and can provide a deterrent for people who may consider knowingly acquiring a stolen firearm.

It is my sincere hope that this committee takes this bill under serious consideration and presents the bill to the entire Wisconsin legislature for passage into law.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gerald M. Urban", with a long, sweeping horizontal flourish extending to the right.

Gerald M. Urban
Detective

943.20 Theft.

(3) PENALTIES. Whoever violates sub. (1):

- (a) If the value of the property does not exceed \$2,500, is guilty of a Class A misdemeanor.
- (bf) If the value of the property exceeds \$2,500 but does not exceed \$5,000, is guilty of a Class I felony.
- (bm) If the value of the property exceeds \$5,000 but does not exceed \$10,000, is guilty of a Class H felony.
- (c) If the value of the property exceeds \$10,000, is guilty of a Class G felony.
- (d) If any of the following circumstances exists, is guilty of a Class H felony:
 - 1. The property is a domestic animal.
 - 3. The property is taken from a building which has been destroyed or left unoccupied because of physical disaster, riot, bombing or the proximity of battle.
 - 4. The property is taken after physical disaster, riot, bombing or the proximity of battle has necessitated its removal from a building.
 - 5. The property is a firearm.
 - 6. The property is taken from a patient or resident of a facility or program under s. 940.295 (2) or from an individual at risk.
- (e) If the property is taken from the person of another or from a corpse, is guilty of a Class G felony.

943.34 Receiving stolen property. (1) Except as provided under s. 948.62, whoever intentionally receives or conceals stolen property is guilty of:

- (a) A Class A misdemeanor, if the value of the property does not exceed \$2,500.
 - (bf) A Class I felony, if the value of the property exceeds \$2,500 but does not exceed \$5,000.
 - (bm) A Class H felony, if the value of the property exceeds \$5,000 but does not exceed \$10,000.
 - (c) A Class G felony, if the value of the property exceeds \$10,000.
- (2) In any action or proceeding for a violation of sub. (1), a party may use duly identified and authenticated photographs of property which was the subject of the violation in lieu of producing the property.

History: 1977 c. 173; 1987 a. 266, 332; 1991 a. 39; 2001 a. 16, 109.

The fact that sequentially received stolen property was purchased for a lump sum is an insufficient basis to aggregate the value of the property; the crime of receiving stolen property does not require payment. *State v. Spraggin*, 71 Wis. 2d 604, 239 N.W.2d 297 (1976).

ASSEMBLY BILL 411 LC Amendment Memo

An Act to amend 943.34 (1) (bm) and 948.62 (1) (bm) of the statutes; relating to: receiving a stolen firearm, and providing a penalty.

2007

06-14-07. A. Introduced by Representatives LeMahieu, Friske, Bies, Albers, Hahn, Lothian, Musser and Townsend; cosponsored by Senators Olsen and Roessler.

06-14-07. A. Read first time and referred to committee on Criminal Justice 214

10-16-07. A. Public hearing held.

11-07-07. A. Executive action taken.

11-27-07. A. Report passage recommended by committee on Criminal Justice,

Ayes 11, Noes 0 365

11-27-07. A. Referred to committee on Rules 365

12-14-07. A. Assembly amendment 1 offered by Representative LeMahieu 403

2008

01-17-08. A. Placed on calendar 1-23-2008 by committee on Rules.

01-23-08. A. Read a second time 459

01-23-08. A. Assembly amendment 1 adopted 459

01-23-08. A. Ordered to a third reading 459

01-23-08. A. Rules suspended 459

01-23-08. A. Read a third time and passed 459

01-23-08. A. Ordered immediately messaged 459

01-24-08. S. Received from Assembly 536

01-25-08. S. Read first time and referred to committee on Judiciary, Corrections, and Housing 540